

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

GENERAL MOTORS LLC, et al.,

Plaintiffs,

v.

JOSEPH ASHTON,

Defendant.

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Civil No. 20-12659

ORDER

KUGLER, United States District Judge:

THIS MATTER having come before the Court on its own motion; and

IT APPEARING TO THE COURT that Plaintiffs filed their Complaint on September 14, 2020, invoking this Court’s diversity jurisdiction pursuant to 28 U.S.C. § 1332 (Doc. 1, “Compl.”) ¶28); and

IT FURTHER APPEARING TO THE COURT that the complaint against Defendant does not allege any claims arising under the Constitution, laws, or treaties of the United States that would bring this matter under the Court’s federal question jurisdiction pursuant to 28 U.S.C. § 1331; and

IT FURTHER APPEARING TO THE COURT that in pleading its citizenship, Plaintiffs plead the following allegations of the parties to this case: (1) “Plaintiff General Motors LLC is a Delaware limited liability company with its principal place of business located at 300 Renaissance Center, Detroit, Michigan, and is a citizen of the State of Delaware and Michigan” (Compl. ¶8); (2) “Ashton is an individual currently residing in New Jersey” (*id.* ¶9); (3) “Ashton

is a resident of New Jersey” (*id.* ¶28); and (4) “the Plaintiffs are residents of Delaware and Michigan” (*id.*); and

IT FURTHER APPEARING TO THE COURT that Plaintiffs did not plead the citizenship of the members of General Motors LLC and made only allegations regarding residency and not the domicile or citizenship of Defendant; and

THE COURT NOTING that “the citizenship of partnerships and other unincorporated associations is determined by the citizenship of its partners or members. Accordingly, the citizenship of an LLC is determined by the citizenship of its members.” *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 418 (3d Cir. 2010) (citing *Swiger v. Allegheny Energy, Inc.*, 540 F.3d 179, 183 (3d Cir. 2008)). “The state of organization and the principal place of business of an unincorporated association are largely irrelevant.” *Lincoln Benefit Life Co. v. AEI Life, LLC*, 800 F.3d 99, 105 (3d Cir. 2015) (citations omitted); and

THE COURT FURTHER NOTING that the Court has “an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.” *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006) (citing *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999)); *see also* Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”); and

THE COURT FURTHER NOTING that “[t]he burden of establishing federal jurisdiction rests with the party asserting its existence.” *Lincoln Benefit*, 800 F.3d at 105 (citing *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006)); and

THE COURT FURTHER NOTING that averments of residency are “jurisdictionally inadequate in [a] diversity of citizenship case.” *McNair v. Synapse Grp. Inc.*, 672 F.3d 213, 219 n.4 (3d Cir. 2012) (citing *Krasnov v. Dinan*, 465 F.3d 1298, 1300 (3d Cir. 1972)); and

THE COURT FURTHER NOTING that diversity jurisdiction under 28 U.S.C. § 1332 requires “complete diversity between all plaintiffs and all defendants,” *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005); and

THE COURT FINDING that the Complaint fails to properly allege diversity jurisdiction; therefore

IT IS HEREBY ORDERED that Plaintiffs **SHALL FILE** an amended complaint properly alleging the citizenship of every party to this action or properly plead an alternative basis for jurisdiction within **FOURTEEN (14) DAYS**, under pain of dismissal for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(h)(3).

Dated: 09/22/2020

/s/ Robert B. Kugler
ROBERT B. KUGLER
United States District Judge